



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,050	01/06/2004	David S. Benco	LUTZ 2 00265	6126
48116	7590	11/04/2008		
FAY SHARPE/LUCENT 1100 SUPERIOR AVE SEVENTH FLOOR CLEVELAND, OH 44114			EXAMINER	
			LAI, DANIEL	
			ART UNIT	PAPER NUMBER
			2617	
			MAIL DATE	DELIVERY MODE
			11/04/2008 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/752,050

Applicant(s)

BENCO ET AL.

Examiner

DANIEL LAI

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 7, 8, 10, 11, 20, 21, 26, 27, 35, 37 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Bugiu et al. (US 2004/0009762 A1, hereinafter Bugiu).

Regarding claims 1 and 20, Bugiu discloses a method and a system for charging a subscriber for airtime (Abstract, paragraph 40). Bugiu discloses determining a first reference billing rate for a first category of airtime (paragraph 40, where Bugiu discusses promotion of a percentage off a specific rate, and the specific rate is the first reference billing rate, and also note that in paragraph 32, Bugiu discusses discount for airtime). Bugiu discloses determining a first threshold airtime amount for the first category of airtime (paragraph 40, where Bugiu discusses call duration). Bugiu discloses determining a quantity of first category airtime consumed by the subscriber (paragraphs 32, 40 and 43, and note that in order to provide discount to a call over a duration, the total call duration has to be determined). Bugiu discloses determining a first discounted billing rate for the first category of airtime that is less than the first reference rate based on a function that at least one of rewards customer loyalty and encourages subscription to a higher cost subscription plans (paragraph 40, where Bugiu discusses loyalty program). Bugiu discloses charging the first discounted billing rate for at least some first category airtime

consumed by the subscriber in excess of the first threshold airtime amount (paragraphs 40, 43 and 53). Regarding claim 20, Bugiu further discloses means for performing the method of claim 1 (paragraph 31).

Regarding claim 35, Bugiu discloses a system operative to charge a progressively lower rate for airtime consumed by a subscriber during a billing period (Abstract, paragraphs 40 and 53). Bugiu discloses a call record reviewer operable to determine one or more total quantities of airtime consumed in one or more airtime categories during the billing period (paragraphs 31-32, where Bugiu discusses CDRs and postpaid billing system). Bugiu discloses a graduated biller operative to apply one or more charges for portions of the one or more total quantities of airtime that are below one or more threshold quantities and to apply at least one discounted billing rate to one or more portions of the one or more total quantities of airtime that are above the one or more threshold quantities of airtime (paragraphs 31 and 40) wherein the at least one discounted billing rate is determined from a function that at least one of rewards customer loyalty and encourages subscription to higher cost subscription plans (paragraph 40).

Regarding claims 2, 21, 37 and 38, Bugiu further discloses charging the first category airtime consumed by the subscriber up to the first threshold airtime amount (paragraphs 40 and 53).

Regarding claims 7, 8, 10, 11, 26 and 27, Bugiu discloses determining quantity of airtime consumed above a threshold amount and charge the excess airtime above the threshold with a discounted billing rate (see claims 1 and 2 above). Bugiu further discloses a second category of airtime (see paragraph 41, where Bugiu discusses different criteria for providing incentive billing).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3, 9, 16, 17, 19, 22, 28 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Whewell (US 2004/0043754 A1).

Regarding claims 3, 9, 22, 28 and 36, Bugiu discloses the limitations of claims 1, 8, 20 and 27 as applied above. Bugiu discloses providing discount on duration in excess of a threshold,

but does not explicitly teach charging a flat fee for airtime consumed by the subscriber up to the first airtime amount. Whewell discloses billing consumers for use of cellular services by charging a flat fee for up to a threshold (paragraphs 2-4). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the discounted billing scheme as disclosed by Bugiu to charge subscriber with a flat rate for up to a threshold amount in order to provide the subscriber with a reference airtime included with a subscription plan.

Regarding claim 16, Bugiu discloses a method for charging a subscriber for airtime (Abstract, paragraphs 40 and 55). Bugiu discloses associating one or more reference billing rates with a respective one or more airtime categories in a calling plan (paragraph 40). Bugiu discloses determining one or more respective discounted billing strategies for charging for airtime consumed by the subscriber in excess of one or more calling plan limits associated with a calling plan of the subscriber wherein the one or more discounted billing strategies is based on a function that at least one of rewards customer loyalty and encourages subscription to higher cost subscription plans (paragraphs 40-43). Bugiu discloses determining one or more airtime amounts in the one or more airtime categories consumed by the subscriber in an airtime billing period (paragraphs 40, 53 and 55). Bugiu discloses applying one of the one or more reference billing rates for respective portions of the one or more airtime amounts that are within the one or more calling plan limit to determine basic charges, applying the one or ore discounted billing strategies to portions of the one or more airtime amounts that are in excess of the calling plan limits to detremine discounted charges and combining the basic charges and discounted surcharges to determine a total charge for the subscriber for the billing period (paragraphs 40 and 55). Bugiu discloses providing discount on duration in excess of a threshold, but does not explicitly teach

charging a flat fee for airtime consumed by the subscriber up to the first airtime amount.

Whewell discloses billing consumers for use of cellular services by charging a flat fee for up to a threshold (paragraphs 2-4). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the discounted billing scheme as disclosed by Bugiu to charge subscriber with a flat rate for up to a threshold amount in order to provide the subscriber with a reference airtime included with a subscription plan.

Regarding claim 17, Bugiu further discloses selecting one or more airtime consumption threshold for each of the one or more airtime categories and calculating one or more discounted billing rate associated with the one or more airtime consumption threshold based on a function of at least the amount of airtime consumed in one or more airtime categories during period of interest, the function selected to generate larger discounts for the amount of airtime consumed in the one or more airtime categories (paragraph 40).

Regarding claim 19, Bugiu further discloses processing call detail records generated by calls associated with the subscriber during the billing period (paragraphs 31-32 and 53-55).

Claims 4-6, 10-12, 24-25, 29-31 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Call Center Plus (<http://web.archive.org/web/20030210080601/callcenterplus.com/pricing.html>), hereinafter CCP.

Regarding claims 4-6, 10-12, 24-25, 29-31 and 39-41, Bugiu discloses the limitations of claim 1 as applied above. Bugiu discloses providing incentive billing for usage of airtime over a predetermined period, but does not expressly disclose a second threshold airtime amount with a second discounted billing rate, a third threshold airtime amount with a third discounted billing rate and a forth threshold airtime amount with a forth airtime discounted billing rate. In an

analogous art, CCP discloses a billing method which provides higher discounted billing rate as minutes of usage of service increases ("Pricing", where discounted billing rate for 2000+ minutes is higher than 1001-2000). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the discounted billing scheme as disclosed by Bugiu to increase billing incentive with the increase of minute usage as disclosed by CCP in order to encourage subscribers to utilize services during low activity periods.

Claims 13, 32 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Dahm et al. (US 6,301,471 B1, hereinafter Dahm).

Regarding claims 13, 32 and 42, Bugiu discloses the limitations of claims 1 and 20 as applied above. Bugiu further discloses determining discount billing rate as a function of loyalty, but does not explicitly disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, customers who has been subscribers of service for a longer period of time is more likely to churn. It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing method as disclosed by Bugiu with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Claims 14, 33 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Ruckart (US 7,324,963 B1).

Regarding claims 14, 33 and 43, Bugiu discloses the limitations of claims 1 and 20 as applied above. Bugiu further discloses rewarding customers for money spend on service, but does not explicitly disclose determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Bugiu with Ruckart to determine a discounted billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Whewell as applied to claim 16 above, and further in view of Dahm.

Bugiu in view of Whewell discloses the limitations of claim 16 as applied above. Bugiu further discloses determining discount billing rate as a function of loyalty, but does not explicitly disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses

likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, customers who has been subscribers of service for a longer period of time is more likely to churn. It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing method as disclosed by Bugiu with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Claims 15, 34 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of Dahm, and further in view of Ruckart.

Regarding claims 15, 34 and 44, Bugiu discloses the limitations of claims 1, 20 and 35 as applied above. Bugiu further discloses determining discount billing rate as a function of loyalty, but does not explicitly disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, customers who have been subscribers of service for a longer period of time are more likely to churn. It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the billing method as disclosed by Bugiu with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers. Bugiu further discloses rewarding customers for

money spend on service, but does not explicitly disclose determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Bugiu with Ruckart to determine a discounted billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of CCP as applied to claim 41 above, and further in view of Dahm.

Regarding claim 45, Bugiu in view of CCP discloses the limitations of claim 41 as applied above. Bugiu further discloses determining discount billing rate as a function of loyalty, but does not explicitly disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for longer customer time periods. In an analogous art, Dahm discloses a method and system to provide subscriber loyalty and retention techniques (col. 2, lines 21-43). Dahm discloses offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, customers who has been subscribers of service for a longer period of time is more likely to churn. It would have been obvious to one having ordinary skill in the art at the

time of the invention to combine the billing method as disclosed by Bugiu in view of CCP with the loyalty retention system as disclosed by Dahm so that a service provider can retain existing subscribers and increase profit by retaining subscribers.

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of CCP as applied to claim 41 above, and further in view of Ruckart.

Bugiu in view of CCP discloses the limitations of claim 41 as applied above. Bugiu further discloses rewarding customers for money spend on service, but does not explicitly disclose determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Bugiu in view of CCP with Ruckart to determine a discounted billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bugiu in view of CCP as applied to claim 41 above, and further in view of Dahm and Ruckart.

Bugiu in view of CCP discloses the limitations of claim 41 as applied above. Bugiu further discloses determining discount billing rate as a function of loyalty and reward customer for spending money on services, but does not explicitly disclose determining a time period the subscriber has been a customer and determining the first discounted billing rate based on a function of the time period the subscriber has been a customer that generates a larger discount for

longer customer time periods. The references also lack determining discounted billing rate based on a calling plan subscription or determining a time period the subscriber has been a customer. Dahm disclose offering bettering rates in exchange for longer-term commitment to customers that are likely to churn (col. 11, line 67-col. 12, line 31). Dahm further discloses likelihood of a Customer churning increases each passing month (col. 1, lines 19-27). Therefore, Bugiu in view of CCP and Dahm discloses determining a discounted billing rate based on time period the subscriber has been a customer and generates larger discounts for longer customer time periods and higher cost subscription plans, but fails to teach determining a discounted billing rate based on calling plan subscription cost. In a similar field of endeavor, Ruckart discloses a method and apparatus for providing discounted billing rates customers for wireless telephone services (Abstract, col. 3, lines 33-36). Ruckart discloses providing a greater discount if more expensive products are selected (col. lines 51-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Bugiu and CCP in view of Dahm and Ruckart to determine a discounted billing rate based on the price of a product is selected in order to provide a variable pricing structure that rewards customers for choosing a greater number of goods and services (col. 2, lines 5-19).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LAI whose telephone number is (571)270-1208. The examiner can normally be reached on Monday-Thursday 9:00 AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. L./
Examiner, Art Unit 2617

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617